

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
10034.540First named inventor: Heinz FranckeApplication No.: 10/559,158Art Unit: 3644Filed: June 7, 2004Examiner: K. SmithTitle: METHOD AND DEVICE FOR EXTRACTING MILK FROM ANIMALS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

1. Petition Fee

- ☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1620.00 (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of an Amendment (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

09/11/2009 BALANCE 00000028 10559158

01 FC:1453
02 FC:12021620.00 OP
104.00 OP

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Jeffrey W. Smith
Signature
Jeffrey W. Smith
Type or Printed name
8000 Excelsior Drive, Suite 301, Madison, WI 53717
Address
Address

Sept. 10, 2009
Date
33455
Registration Number, If applicable
608-824-8300
Telephone Number

- Enclosures: ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature

Typed or printed name of person signing certificate



PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant: Francke et al.

Docket No.: 10034.540

Date: September 10, 2009

Application No.: 10/559,158

Int'l Filing Date: June 7, 2004

Art Unit: 3644

Examiner: K. Smith

For: METHOD AND DEVICE FOR EXTRACTING MILK FROM ANIMALS

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to:

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Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On Sept. 10, 2009

Signature Jeffrey W. Smith

Jeffrey W. Smith, Reg. No. 33455
Name of Applicant, assignee or
Registered Representative

**PETITION TO REVIVE AND
STATEMENT UNDER 37 C.F.R. 1.137(b)**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Undersigned Counsel for Applicants hereby provides a showing of cause under 37 C.F.R. 1.137(b) for revival due to unintentional abandonment of the above-captioned patent application, and declares as follows:

1. Undersigned Counsel represents Applicants (*Francke et al.*) in the above-captioned patent application.
2. A Notice of Abandonment of the application was mailed on August 17, 2009, and it was received by Undersigned Counsel on August 20, 2009. (Ex. A.) Prior to receiving the Notice

Applicant: Francke et al.
Application No.: 10/559,158

of Abandonment, Undersigned Counsel was unaware that there had been any substantive action taken in the case, and in particular did not know that an office action had been entered in the case.

3. A January 26, 2009 official action was obtained by Undersigned Counsel only after receiving the Notice of Abandonment. The January 26, 2009 action indicates that it had been sent to an old address for Undersigned Counsel, despite the fact that a Notice of Address Change had been filed, received by the Patent Office, and entered into the PAIR system on November 10, 2008 (Ex. B).

4. The Notice of Abandonment indicates that it was entered because no response has been filed for the January 26, 2009 official action. (Ex. C.) A three-month response period had been set so the application officially lapsed on April 26, 2009. The entire delay from the Reply due date to the present was unintentional.

5. Attached are Applicants' November 7, 2008 Notice of Address Change (Ex. D), and Applicants' postcard that was date stamped November 10, 2008 by the United States Patent & Trademark Office (Ex. E).

6. The delay in filing a Reply as referenced in the Notice of Abandonment, therefore, appears to be a Patent Office error, and not of Applicants or Undersigned Counsel, and this application should be revived at no cost to Applicants.

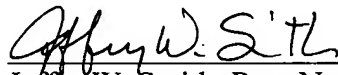
7. On August 20, 2009, Applicants' counsel's paralegal left a telephone message for this applications' Examiner Smith regarding the Notice of Address Change and Notice of Abandonment. Examiner Smith left a return telephone message on August 24, 2009 indicating that she did see that the Notice of Address Change had been filed on November 10, 2008 and

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Application No.: 10/559,158

that the Official Action had not been mailed until January 26, 2009. Examiner Smith agreed that the Official Action *was not* mailed to the appropriate address.

8. Examiner Smith suggested that these facts be stated in a Petition to Revive.
9. A complete response to the January 26, 2009 official action is submitted herewith.
10. Undersigned Counsel has been warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. All statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

Respectfully submitted,



Jeffrey W. Smith, Reg. No. 33455
Attorney for Applicant
SMITH LAW OFFICE
8000 Excelsior Drive, Suite 301
Madison, WI 53717
(608) 824-8300



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
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10/559,158

03/28/2006

Heinz Francke

10034.540

9055

39231 7590 08/17/2009
SMITH LAW OFFICE
8000 EXCELSIOR DRIVE, SUITE 301
MADISON, WI 53717

RECEIVED

AUG 20 2009

SMITH LAW OFFICE

EXAMINER

SMITH, KIMBERLY S

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

08/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Abandonment

Application No.

10/559,158

Examiner

Kimberly S. Smith

Applicant(s)

FRANCKE ET AL.

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 26 January 2009.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

/Kimberly S Smith/
Primary Examiner, Art Unit 3644

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

10/559,158 Method and device for extracting milk from animals

08-20-
2009::14:39:34

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

| Mail Room Date | Document Code | Document Description | Page Count |
|----------------|---------------|---|------------|
| 08-17-2009 | ABN | Abandonment | 2 |
| 01-26-2009 | CTNF | Non-Final Rejection | 6 |
| 01-26-2009 | 892 | List of references cited by examiner | 1 |
| 01-26-2009 | 1449 | List of References cited by applicant and considered by examiner | 2 |
| 01-26-2009 | SRFW | Search information including classification, databases and other search related notes | 1 |
| 11-10-2008 | C.AD | Change of Address | 2 |
| 10-09-2008 | TRAN.LET | Transmittal Letter | 7 |
| 10-09-2008 | IDS | Information Disclosure Statement (IDS) Filed (SB/08) | 2 |
| 10-09-2008 | FOR | Foreign Reference | 17 |
| 10-09-2008 | FOR | Foreign Reference | 12 |
| 10-09-2008 | FOR | Foreign Reference | 12 |
| 10-09-2008 | FOR | Foreign Reference | 13 |
| 10-09-2008 | NPL | NPL Documents | 5 |
| 10-09-2008 | NPL | NPL Documents | 5 |
| 10-09-2008 | NPL | NPL Documents | 8 |
| 06-07-2006 | CFILE | Request for Corrected Filing Receipt | 4 |
| 05-24-2006 | M903 | Notice of DO/EO Acceptance Mailed | 2 |
| 03-28-2006 | PEFR | Applicant Response to Pre-Exam Formalities Notice | 7 |
| 03-28-2006 | OATH | Oath or Declaration filed | 3 |
| 03-28-2006 | IMIS | Miscellaneous Internal Document | 1 |
| 03-16-2006 | M905 | Notice of DO/EO Missing Requirements Mailed | 2 |
| 12-05-2005 | TRNA | Transmittal of New Application | 4 |
| 12-05-2005 | 136A | Authorization for Extension of Time all replies | 4 |
| 12-05-2005 | SPEC | Specification | 16 |
| 12-05-2005 | CLM | Claims | 3 |
| 12-05-2005 | ABST | Abstract | 1 |
| 12-05-2005 | WFEE | Fee Worksheet (PTO-875) | 1 |
| 12-05-2005 | A.PE | Preliminary Amendment | 1 |
| 12-05-2005 | CLM | Claims | 3 |
| 12-05-2005 | REM | Applicant Arguments/Remarks Made in an Amendment | 1 |
| 12-05-2005 | 371P | Documents submitted with 371 Applications | 31 |
| 12-05-2005 | 371P | Documents submitted with 371 Applications | 29 |
| 12-05-2005 | ABST | Abstract | 2 |
| 12-05-2005 | FRPR | Certified Copy of Foreign Priority Application | 20 |
| 12-05-2005 | IMIS | Miscellaneous Internal Document | 1 |
| 12-05-2005 | WFEE | Fee Worksheet (PTO-875) | 1 |
| 12-05-2005 | WCLM | Claims Worksheet (PTO-2022) | 1 |
| 12-05-2005 | WFEE | Fee Worksheet (PTO-875) | 1 |

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | | | | |
|---|---------------|----------------------|---|------------------|---------------|------------|-------------------|--|
| 10/559,158 | 03/28/2006 | Heinz Francke | 10034.540 | 9055 | | | | |
| 7590 Smith Law Office Suite 302 440 Science Drive Madison, WI 53711 | | 01/26/2009 | <table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">SMITH, KIMBERLY S</td></tr></table> | | EXAMINER | | SMITH, KIMBERLY S | |
| EXAMINER | | | | | | | | |
| SMITH, KIMBERLY S | | | | | | | | |
| | | | <table border="1"><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>3644</td><td></td></tr></table> | ART UNIT | PAPER NUMBER | 3644 | | |
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| 3644 | | | | | | | | |
| | | | <table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>01/26/2009</td><td>PAPER</td></tr></table> | MAIL DATE | DELIVERY MODE | 01/26/2009 | PAPER | |
| MAIL DATE | DELIVERY MODE | | | | | | | |
| 01/26/2009 | PAPER | | | | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/559,158 | Applicant(s) FRANCKE ET AL. | |
| | Examiner Kimberly S. Smith | Art Unit 3644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>10/09/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Specification

2. The disclosure is objected to because of the following informalities: page 2, lines 26 and 27; the use of "claim 1" and "claim 17" should be replaced with the specific features of the claims as during prosecution, the scope of the claims may be amended such that the scope of the specification is not consistent. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. The claims are directed to a method for extracting milk from animals, however no method steps have been claimed.

Claim Rejections - 35 USC § 112

Art Unit: 3644

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 1 recites the limitation "the extracted milk yield" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Regarding claim 4, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
8. Regarding claim 8, the use of and/or renders the claim indefinite as it is not clear as to which limitations are required.
9. Regarding claim 11, the phrase "in particular" and "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
10. Regarding claim 15, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
11. Claim 17 recites the limitation "the milking places" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3644

12. Regarding claim 19, the phrase "in particular" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

13. Claim 20 recites the limitation "the selection means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 17-20 *as best understood* are rejected under 35 U.S.C. 102(b) as being anticipated by Westfalia, DE 101 31443. Westfalia discloses a device for extracting milk from animals.

Conclusion

16. In light of the 35 USC 101 and 112 rejections, art based rejections were not able to be determined at this juncture. The lack of art based rejections is not indicative of allowable subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is (571)272-6909. The examiner can normally be reached on Monday-Thursday 10:00-6:00.

Art Unit: 3644

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on 571-272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly S Smith/
Primary Examiner, Art Unit 3644
kss

| | | | |
|-----------------------------------|---------------------------------------|--|-------------|
| Notice of References Cited | Application/Control No. 10/559,158 | Applicant(s)/Patent Under Reexamination FRANCKE ET AL. | |
| | Examiner Kimberly S. Smith | Art Unit 3644 | Page 1 of 1 |

U.S. PATENT DOCUMENTS

| * | | Document Number Country Code-Number-Kind Code | Date MM-YYYY | Name | Classification |
|---|---|--|-----------------|---------------------|----------------|
| * | A | US-6,209,485 | 04-2001 | van der Lely et al. | 119/14.02 |
| | B | US- | | | |
| | C | US- | | | |
| | D | US- | | | |
| | E | US- | | | |
| | F | US- | | | |
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| | H | US- | | | |
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NON-PATENT DOCUMENTS

| * | | Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages) |
|---|---|---|
| | U | |
| | V | |
| | W | |
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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
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Receipt date: 10/09/2008



PTO/SB/08a (09-08)

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Complete if Known

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| Application Number | 10/559,158 |
| Filing Date | June 7, 2004 |
| First Named Inventor | Heinz Francke |
| Art Unit | |
| Examiner Name | |
| Attorney Docket Number | 10034.540 |

Sheet of

U. S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Document Number | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
|-----------------------|--------------------------|--|--------------------------------|--|---|
| | | Number-Kind Code ² (if known) | | | |
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| | | US- 5,784,993 | 07-28-1998 | Osthues et al. | |
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|-----------------------|--------------------------|---|-----------------------------------|--|---|----------------|
| | | Country Code ³ Number ⁴ Kind Code ⁵ (if known) | | | | |
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| Examiner Signature | /Kimberly Smith/ | Date Considered | 01/19/2009 |
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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

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| Sheet | of | Application Number | 10/559,158 |
| | | Filing Date | June 7, 2004 |
| | | First Named Inventor | Heinz Francke |
| | | Art Unit | |
| | | Examiner Name | |
| | | Attorney Docket Number | 10034.540 |

NON PATENT LITERATURE DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
|--------------------|-----------------------|---|----------------|
| | | English language Abstract, Translated Description and Claims of DE 101 31 443 A1, European Patent Office's esp@cenet.com database, 5pp. | |
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| Examiner Signature | /Kimberly Smith/ | Date Considered | 01/19/2009 |
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| Search Notes  | Application/Control No. 10559158 | Applicant(s)/Patent Under Reexamination FRANCKE ET AL. |
| | Examiner Kimberly S Smith | Art Unit 3644 |

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| SEARCHED | | | |
| Class | Subclass | Date | Examiner |
| 119 | 14.02 | 1/19/09 | ks |

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| SEARCH NOTES | | |
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| INTERFERENCE SEARCH | | | |
| Class | Subclass | Date | Examiner |
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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

Application Number 10/559,158

Filing Date December 5, 2005

First Named Inventor Heinz Francke

Art Unit

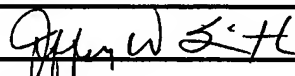
Examiner Name

Attorney Docket Number 10034.540

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| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | Notice of Address Change (1p) |
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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| Signature |  | | |
| Printed name | Jeffrey W. Smith | | |
| Date | November 7, 2008 | Reg. No. | 33455 |

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PATENT APPLICATION

In the United States Patent and Trademark Office

Applicant: Francke et al.

Docket No.: 10034.540

Date: November 7, 2008

Application No.: 10/559,158

Filed: December 5, 2005

For: METHOD AND DEVICE FOR EXTRACTING MILK FROM ANIMALS

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Name of Applicant, assignee or Registered Representative

NOTICE OF ADDRESS CHANGE

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P.O. Box 1450
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Dear Sir:

Please note that the undersigned counsel for Applicant(s) in the above-referenced application has relocated his office.

Smith Law Office
8000 Excelsior Drive, Suite 301
Madison, WI 53717
Phone: 608-824-8300
Facsimile: 608-824-8385
Customer No.: 39231

Please update your database with the new address, phone and facsimile numbers for all future correspondence relating to this application.

Respectfully submitted,

Jeffrey W. Smith
Jeffrey W. Smith, Reg. No. 33455
Attorney for Applicant
SMITH LAW OFFICE
8000 Excelsior Drive, Suite 301
Madison, WI 53717
(608) 824-8300

In the United States Patent and Trademark Office
Applicant: Docket No.: Date:
Francke et al. 10034.540 November 7, 2008
Title: Method and Device for Extracting Milk From Animals
Application No.: 10/559,158
Honorable Commissioner for Patents and Trademarks:
Please acknowledge receipt of the following:
* PTO/SB 21 (1p)
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Jeffrey W. Smith, Reg. No. 33455

IAP01Rec'd PCT 10 NOV 2008